IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2016 2004

Santosh Nilkanth Pathare. .. .. Petitioner
v/s.
1. M.P.S.C. & ors. .. .. Respondents

Mr.Shrish Naik for petitioner.

Mr.G.W.Mattos, AGP.

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**CORAM : H.L. GOKHALE &**
**S.C.DHARMADHKARI, JJ.**

**DATED : 14TH JANUARY 2005**

**P.C. :**

1. Heard Mr.Naik in support of this petition. Mr.Mattos, AGP appears for the respondents.

2. The petitioner was engaged in the Computer Section of the 1st respondent-Maharashtra Public Service Commission. During the course of the examinations held in 1999, it was noticed by the Controller of Examination that the marks of two candidates appearing for the examination of the Deputy Collector had been inflated. It was found that in case of one candidate in Optional Paper No.1, 38 marks were increased by putting 154 marks instead of 116, 32 marks were increased by putting

145 marks instead of 113 in Optional Paper No.2 and 10 marks were increased by putting 56 marks instead of 46 in interview. Likewise, in case of another candidate 20 marks were increased by putting 64 marks instead of 44 in interview.

3. A departmental enquiry was held against the petitioner in which he accepted that such wrong entries have come to be made at his hands. He, however, pleaded that this has happened because of mistake which was caused due to some psychological disturbance which he was suffering at the relevant time. This statement of the petitioner is reflected in the enquiry, but the Enquiry Officer did not accept this defence nor this defence was accepted by the Maharashtra Administrative Tribunal, Mumbai, when the petitioner filed Original Application No.211 of 2003 which came to be rejected by the order passed on 17th October 2003. It is this order which is under challenge in the present petition.

4. Mr.Mattos, learned Assistant Government Pleader appearing for the respondents, has shown us the statement made by the petitioner during the course of the enquiry. We fail to understand how

such a defence could be accepted by the Enquiry Officer who has rightly refused to accept it. Almost 80 marks have been inflated in case of one candidate in two written examinations and interview and 20 marks in case of another candidate in interview. There is no explanation as to why such a thing should have happened in case of two particular candidates. The examination has to be conducted with all seriousness and the examining body is answerable for the wrongs committed by its employees. The selected persons are to occupy high positions in the government administration. The Enquiry Officer, in our view, was right in the absence of any justifying material in rejecting the bald statement which the petitioner had made leading to his dismissal from service. The Maharashtra Administrative Tribunal was also right in rejecting the challenge to the dismissal. The petition is rejected.

**(H.L. GOKHALE, J.)**

**(S.C.DHARMADHIKARI, J.)**